

REPORT OF THE EXECUTIVE OFFICER  
State Allocation Board Meeting, May 26, 1999

ADVANCE SITE AND PLANS REPAYMENT PROVISION

PURPOSE OF REPORT

To establish a definition of an extreme hardship pursuant to Education Code Section 17020.

DESCRIPTION

Education Code Section 17020 created a program that allowed for the purchase of land and the preparation of plans for school facilities in advance of eligibility for construction funding. Applicants had five years to file for a construction apportionment under the Lease-Purchase Program to utilize the site and plans funded under the program. If the district did not have an approved application for a construction apportionment within that time, the district was required by law to repay the apportionment. The repayment was to start in the fifth fiscal year following the funding of the application and to be made in ten equal annual installments with interest.

A number of districts have been unable to generate the eligibility for construction as required under the law. Some of these districts claim that they are financially unable to repay the apportionments. Several other districts have proceeded with construction on the sites in question using local funds. They maintain that this construction meets the intent of the law, and, therefore, they should be exempted from repayment.

The law provides that the Board may waive repayment under this subdivision to the extent that the Board finds that the obligation will result in extreme hardship upon the district.

BOARD POLICY

There is no SAB policy addressing the enforcement of the repayment provisions of Education Code Section 17020 or defining what constitutes an extreme hardship under the program.

STAFF COMMENTS

The districts subject to the advance site and plan repayment provisions have been notified of the potential repayment. Some have repaid the apportionments and others have begun installment repayment as allowed by law. However, several districts have indicated this repayment would create a hardship either because a school facility has been constructed on the site or because the repayment would create a financial hardship. Staff concurs that under certain circumstances, repayment is not financially possible. Staff also agrees that when a facility has been constructed with local funds that utilizes the site and/or plans, the intent of the law has been met.

In order to accommodate these circumstances, Staff proposes that the criteria listed under the Recommendations be established to determine that the district is in or will be placed into an extreme hardship if the SAB were to enforce the repayment provisions.

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## RECOMMENDATIONS

Adopt the following as State Allocation Board's extreme hardship definition for the repayment provisions of Education Code Section 17020.

1. If the district is listed on the California Department of Education's (CDE) "List of Qualified and Negative Certifications School Districts and County Offices of Education" current report.
2. The district's current repayment amount for one or more projects would cause the district to be listed on the CDE's "List of Qualified and Negative Certifications School Districts and County Offices of Education" current report.
3. A financial review by the Office of Public School Construction (OPSC) determines the district is not able to pay the current repayment amount as determined by the SAB Regulations Section 1859.81 (a).
4. The district certifies it will file a new construction funding application under the School Facility Program (SFP), within 12 months, that the application is for a project that is master planned to utilize the site acreage, and that the site will be used for that project.
5. The district has constructed a project with local funding that is master planned to utilize the site acreage.

When the circumstances described in 1, 2, or 3 are met, the State Allocation Board (SAB) will waive the amount of funds released to the district. If there was a site purchased, the site will be subject to Education Code Section 17219 through 17224 (nonuse payments). If the site is sold, the net proceeds will be returned to the State to the fund that generated the original funding.

When the circumstances described in 4 or 5 are met, the SAB will waive the amount of funds released to the district. The site will be subject to Education Code Section 17219 through 17224 (nonuse payments). If an approvable construction application is not filed as required under item 4, repayment will commence on July 1, 2000.

Those districts not meeting the criteria outlined in items 1 through 5, the repayments will commence on July 1, 1999.

This Item was approved by the State Allocation Board on May 26, 1999.